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CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2506

Introduced by Assembly Member Steinberg
(Coauthors: Assembly Members Alquist, Keeley, Koretz,
Longville, Pavley, Salinas, and Washington)
(Coauthors: Senators Kuehl and Soto)

February 21, 2002

An act to add Chapter 39 (commencing with Section 25100) to Part 13 of Division 1 of Title 1 of the Education Code, relating to retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2506, as amended, Steinberg. State Teachers' Retirement System: investment products.

Existing law creates the State Teachers' Retirement System (STRS) as a unit within the State and Consumer Services Agency to administer a retirement program for public school teachers, teachers in schools supported by the state, and other persons employed in connection with the schools. STRS is managed by the Teachers' Retirement Board.

This bill would require the board to establish a registration process for vendors seeking to offer retirement investment products to

employees of all local school districts, community college districts, and county offices of education. The bill would require the initial registration process to be completed by January 1, 2004. The bill would require the board to provide those entities access to an impartial information bank to compare the registered vendors and the investment options being offered. The bill would require registration to be offered once annually and that vendors renew their registration at least every 5 years. The bill would establish requirements for the amendment of information required by the vendors. The bill would permit the board to remove a vendor from the registry, as specified. The board would be required to provide registry information and objective investment performance information on the Internet. The bill would require the actual and reasonable costs associated with the establishment and administration of the investment registration process and the provision of the information bank to be borne equally by the registered vendors, as specified.

The bill would provide immunity to the board, STRS, and its officers and employees from liability for information in the bank and actions of the vendors. The bill would restrict the forwarding of consideration for unregistered retirement investment products, as specified, and would limit employee selection of investment products, as specified. The bill would prohibit specified personnel from receiving consideration for promoting a particular vendor's products. The bill would enact other related provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. It is the intent of the Legislature, in enacting this
- 2 act, to do all of the following:
- 3 (a) To provide employees of local school districts, community
- 4 college districts, and county offices of education who are eligible
- 5 to contribute voluntarily to tax-deferred retirement investment
- 6 options with specific information about tax-deferred products and
- 7 the registered companies that offer them.
- 8 (b) To provide employees of local school districts, community
- 9 college districts, and county offices of education with information
- 10 that allows these employees to make informed decisions in
- 11 selecting tax-deferred retirement investment products described in



1 Section 403(b) of the Internal Revenue Code of 1986 and the
2 vendors that provide them by establishing a registration process
3 within the State Teachers' Retirement System for participating
4 vendors.

5 (c) To provide employees of local school districts, community
6 college districts, and county offices of education and other
7 interested parties, with access to an impartial information bank to
8 compare among registered vendors and investment options
9 available, including information related to participant cost,
10 participant education, vendor experience, other vendor services,
11 and access to all performance and other prospectus disclosures, as
12 required by the National Association of Securities Dealers and the
13 Securities and Exchange Commission.

14 (d) To require that the actual and reasonable costs associated
15 with the initial establishment and continuing administration of the
16 investment registration process and the provision of the
17 information bank and costs associated with publicizing the
18 availability of the information bank at local school districts,
19 community college districts, and county offices of education are
20 borne equally by the participating registered vendors based on the
21 total number of registrants.

22 (e) To enable all local school districts, community college
23 districts, and county offices of education to provide employees
24 notice of available retirement investment products from registered
25 vendors.

26 (f) To provide a mechanism for ensuring that employees of
27 local school districts, community college districts, and county
28 offices of education are aware of, and have access to, the
29 information provided in the impartial investment information
30 bank maintained by the board.

31 SEC. 2. Chapter 39 (commencing with Section 25100) is
32 added to Part 13 of Division 1 of Title 1 of the Education Code, to
33 read:

34
35 CHAPTER 39. STATEWIDE PUBLIC AGENCY RETIREMENT
36 INVESTMENT PRODUCT VENDOR REGISTRATION PROCESS AND
37 INFORMATION BANK
38

39 25100. (a) The board shall establish a vendor registration
40 process through which information about tax-deferred retirement

1 investment products as described in Section 403(b) of the Internal
2 Revenue Code of 1986 shall be made available for consideration
3 by public employees of all local school districts, community
4 college districts, and county offices of education.

5 (b) For the purposes of this chapter, “403(b) products” means
6 tax-deferred retirement investment products as described in
7 Section 403(b) of the Internal Revenue Code of 1986.

8 25101. A prospective vendor of 403(b) products that offers
9 those products to local school districts, community college
10 districts, county offices of education and their employees, shall
11 register those products with the board pursuant to this chapter.

12 (a) Prospective vendors shall be registered with the board
13 based upon a complete response to the disclosures required by this
14 subdivision. This information shall be included in the impartial
15 investment information bank established pursuant to Section
16 25104. The prospective vendors shall provide the following
17 information:

18 (1) A statement of experience in California and in other states
19 in providing retirement annuities, custodial account mutual fund
20 arrangements, or other retirement products and related financial
21 services under public employer retirement plans.

22 (2) A characterization by the vendor of its offering as either an
23 annuity or custodial account, as defined under Sections 403(b)(1)
24 and 403(b)(7) of Internal Revenue Code respectively.

25 (3) A disclosure of all expenses paid directly or indirectly by
26 retirement plan participants, including, but not limited to,
27 penalties for early withdrawals, declining or fixed withdrawal
28 charges, surrender or deposit charges, management fees, and
29 annual fees, supported by documentation as required for
30 prospectus disclosure by the National Association of Securities
31 Dealers and the Securities and Exchange Commission.

32 (4) The types of products, product features, including presence
33 of two tier annuity features, and services offered to participants.

34 (5) A discussion of the ability, experience, and commitment of
35 the vendor to provide retirement counseling and education
36 services, including, but not limited to, access to group meetings
37 and individual counseling by various means, including telephone
38 and telecommunications devices for the deaf (TDD), Internet, and
39 face-to-face consultations by registered representatives.



1 (6) A statement of the financial strength and stability of the
2 vendor, as may be applicable, by identifying its ratings assigned
3 by nationally recognized rating services that evaluate the financial
4 strength of life insurance, mutual funds, and other similar
5 companies.

6 (7) The location of offices and counselors, or method of
7 distribution, of the vendor relative to serving local school districts,
8 community college districts, and county offices of education and
9 their employees in California.

10 (8) A description of the ability of the vendor to comply with all
11 applicable provisions of federal and state law governing
12 retirement plans, including minimum distribution requirements
13 and contribution limits, willingness to negotiate reasonable
14 indemnification agreements with local school districts,
15 community college districts, and county offices of education,
16 collectively or individually, with respect to the qualification of the
17 investment products and services provided.

18 (9) To the extent applicable, the demonstrated ability of the
19 vendor to offer an appropriate array of accumulation funding
20 options, including, but not limited to, a diversified mix of value,
21 growth, growth and income, hybrid and index funds or accounts
22 across large, mid, and small capitalization asset classes, both
23 domestic and international. These investment products may
24 include mutual funds, group or individual annuity contracts, fixed
25 or variable annuity contracts, individual retirement annuities,
26 interests in trust and collective trusts, separate accounts, and other
27 financial instruments.

28 (10) A discussion of the range of administrative and customer
29 services provided, including asset allocation, accounting and
30 administration of benefits for individual participants,
31 recordkeeping for individual participants, asset purchase, control,
32 and safekeeping, execution of a participant's instructions as to
33 asset and contribution allocation, calculation of daily net asset
34 values, direct access for participants to their account information,
35 periodic reporting to active participants, not less than quarterly, on
36 their account balances and transactions, and compliance with the
37 standard of care applicable in the provision of investment services
38 and consistent with federal law.

1 (11) Certification by the vendor that the information provided
2 to the board accurately reflects the provisions of the Section 403(b)
3 products they register pursuant to this chapter.

4 (b) Registration may not be conditioned upon the content of the
5 information.

6 (c) Vendors shall supply information and data in the format
7 required by the board.

8 25102. Registration shall be offered to vendors once annually,
9 and renewal of registration shall be required at least once every
10 five years thereafter for vendors that wish to continue to
11 participate. The board shall provide public notice prior to the
12 initial registration, annual registration, and registration renewal
13 periods. The board may require an update of the information
14 required to be provided under Section 25101 with each registration
15 renewal. Registered vendors shall submit to the board within 60
16 days an amendment to the information required to be provided
17 under Section 25101 to reflect material changes to the products or
18 services offered that occur between registration or renewal
19 periods. Registered vendors may register additional 403(b)
20 products with the board between registration or renewal periods by
21 providing the board the information required under Section 25101
22 and fees required under subdivision (c) of Section 25108. Upon
23 receipt of information reflecting material changes or additions to
24 the products or services offered by registered vendors that occur
25 between registration or renewal periods, the board shall reflect
26 those changes in the impartial investment information bank
27 established pursuant to Section 25104 within 60 days.

28 25103. (a) The board may remove a vendor from the registry
29 if the vendor submits materially inaccurate information to the
30 board, does not remit assessed fees within 60 days, or fails to
31 submit within 60 days notice of material changes to their registered
32 investment products, pursuant to Section 25102. Vendors found to
33 have submitted materially inaccurate information to the board
34 shall be allowed 60 days to correct the information. The board may
35 refer vendors that submit information required under Section
36 25102 that is materially inaccurate and may constitute conduct
37 prohibited by the National Association of Securities Dealers and
38 the California Department of Insurance to those entities.

39 (b) The board shall remove a vendor from the registry if the
40 vendor is not licensed or has their license revoked by the National

1 Association of Securities Dealers or the California Department of
2 Insurance for engaging in conduct prohibited by those entities.

3 (c) The board shall establish an appeals process pursuant to
4 Section 22219 for vendors that are denied registration or removed
5 from the registry.

6 25104. The board shall maintain an impartial investment
7 information bank, via an Internet Web site, containing the
8 information required by Section 25101 about the retirement
9 investment products offered by each registered vendor and
10 objective comparisons of vendors and types of products. The
11 information bank shall include information on investment
12 performance based upon the investment's average annual total
13 return, as measured by a nationally recognized rating service
14 selected by the board for standard periods of time of not less than
15 one year. The board shall have the authority to organize data, but
16 may not subjectively rank or give preference to a vendor or
17 product.

18 25105. The board shall include notice of the existence of, and
19 the Internet Web site address for, the impartial investment
20 information bank in each newsletter sent to members. The board
21 shall include a notice in the individual account statements of
22 members of the Defined Benefit Program and participants of the
23 Cash Balance Benefit Program that explains the purpose and Web
24 site address of the impartial investment information bank.

25 25106. The board shall design the information bank Internet
26 Web site and include retirement investment product plan
27 information and education materials taken from and referenced to
28 the Internal Revenue Service, the Securities and Exchange
29 Commission, the National Association of Insurance
30 Commissioners, and other applicable governmental or regulatory
31 agencies. Information shall be presented and used in a manner that
32 is consistent with the rules of those agencies and with rules of the
33 National Association of Securities Dealers. The information shall
34 be offered as a preface to the vendor information required in
35 Section 25101. The preface shall include, but shall not be limited
36 to, the following information:

37 (a) An explanation of Section 403(b) of the Internal Revenue
38 Code of 1986.

(b) The retirement investment products that may be purchased under Section 403(b) of the Internal Revenue Code of 1986, and with definitions of those products.

(c) Definitions or explanations of all fees referred to in the investment information bank.

25107. A vendor may not charge a fee that is not disclosed. Fee disclosure for self-directed accounts shall include both the fixed account fees and, at minimum, the range for variable account fees, based upon the fees of the underlying products.

25108. (a) The actual and reasonable cost of establishing the vendor registration system and the investment information bank shall be borne equally by registered vendors, based on the total number of registered vendors. Each registered vendor shall pay a one-time establishment fee equal to a pro rata share of the establishment costs charged to vendors that register with the board prior to the close of the initial registration period, as determined by the board. The one-time establishment fee charged to vendors that register with the board after the completion of the initial registration period shall be distributed equally among registered vendors that have paid the establishment fee, and credited toward subsequent maintenance and administrative fees charged to each vendor.

(b) The actual and reasonable cost of maintaining the vendor registration system and the investment information bank, and the costs associated with publicizing the availability of the investment information bank to local school districts, community college districts, and county offices of education and their employees, shall be borne equally by registered vendors, based on the total number of registered vendors. Each registered vendor shall pay a renewal fee equal to a pro rata share of the maintenance costs, as determined by the board.

(c) Each registered vendor shall pay an administrative fee for each investment option ~~they offer~~ *it offers* to school employees, which shall represent the costs associated with processing the information related to the investment option and presenting it on the investment information bank, as determined by the board.

(d) The board may not divert member services resources or personnel to establish or maintain the registration list.

25109. (a) The board and the system, and its officers and employees, are not responsible for, and may not be held liable for

1 the adequacy of the information provided by the participating
2 vendors contained in the information bank. The information bank
3 maintained by the board serves only *to* provide information
4 supplied by the participating vendors for the consideration of
5 selection of 403(b) products.

6 (b) Participating vendors may not utilize the system's logo,
7 ~~claim~~, or *claim* or infer any endorsement or recommendation by
8 the board or the system with respect to products and services
9 identified by the vendors in the information bank. At the discretion
10 of the board, a violation of this section may lead to removal from
11 the registry. This restriction does not apply to 403(b) products
12 offered by the board to school employees pursuant to Section
13 24950.

14 (c) The board and the system may not be held liable for the
15 actions of registered vendors.

16 25110. The board shall complete the initial registration
17 process on or before January 1, 2004.

18 25111. Each local school district, community college district,
19 and county office of education, in consultation with the exclusive
20 bargaining agent of its employees, if any, may develop a process
21 to ensure that employees are aware of, and have access to,
22 information provided in the impartial investment bank maintained
23 by the board.

24 25112. Personnel, including elected school officials, acting
25 on behalf of a local school district, community college district, or
26 county office of education may not receive consideration from a
27 vendor in exchange for the promotion of a particular vendor or
28 vendor's products.

29 25113. A local school district, community college district, or
30 county office of education may not forward annuity or custodial
31 account consideration to the vendor of any unregistered 403(b)
32 product, except insofar as an employee has directed the employer
33 to continue making contributions to an unregistered product or
34 products purchased or entered into prior to the implementation
35 date of the impartial investment bank

36 25114. Employees shall select from registered products.
37 Notwithstanding Section 25113, an employee of a local school
38 district, community college district, or county office of education
39 may continue to make contributions to unregistered products

1 purchased or entered into prior to the date of implementation of the
2 impartial investment bank.
3 25115. For purposes of restricting the use of 403(b)
4 investment products sold to employees of local school districts,
5 community college districts, and county offices of education by
6 those vendors and investment products registered with the board
7 pursuant to this chapter, the provisions of Section 770.3 of the
8 Insurance Code do not apply.

